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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,520	08/29/2001	Wayne Odom	KARAWAY01-01	9628

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EXAMINER

MARKS, CHRISTINA M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 04/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,520

Applicant(s)

ODOM, WAYNE

Examiner

C. Marks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The rejection of claim 5 has been withdrawn due to the cancellation of the claim in the amendment filed on 24 February 2003.

Claim Rejections - 35 USC § 102

The rejections of claims 1-5 under 35 U.S.C. 102(b) as being anticipated by Richardson has been withdrawn due to the cancellation of the claims in the amendment filed on 24 February 2003.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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Claims 6-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs (US Patent No. 5,630,753) in view of Richardson (US Patent No. 5,042,809).

Fuchs disclose a method and apparatus for playing a card game wherein a processor selects data symbols from a large number of predetermined inventory in accordance with a randomizing criteria (Column 1, lines 15-18). Thus the predetermined number of symbols represents a fixed amount and can be arranged into sets of at least two indicia each (FIG 4). These symbols the processor selects are inherently stored in a data structure. The player can then place a wager (Column 7, lines 45-51). The player can play a series of hands and for each hand of play; the symbols are selected from the data structure (Column 1, lines 15-18) and are presented on a display (FIG 4). A win is made dependent on the appearance of certain symbols that define a winning and losing hand (Column 8, lines 55-61). The symbols are displayed into a game matrix to determine winning and losing combinations based on paylines (FIG 4; Column 8, lines 48-49). Though Fuchs disclose only one payline, the use of a plurality of paylines is notoriously well known in the art and would have been obvious to the system of Fuchs in order to provide the player with more winning opportunities per hand.

It is disclosed that the number of symbols are predetermined (Column 9, lines 23-27), and are selected randomly (Column 1, lines 15-18). Further, it is inherent to the functionality of the device that the symbols would be stored in a data structure for access. Fuchs discloses that the symbols are displayed in accordance with a pre-established game plan and are stored in a list (Column 4, lines 45-59). Henceforth, it would be obvious to one of ordinary skill in the art that the symbols could be accessed randomly from the list data structure, or alternatively stored in a random order in the list data structure and then accessed serially. Both are well known methods

of randomizing data and absent a showing of criticality would have been equivalent design choices to one of ordinary skill in the art.

Fuchs also discloses that at the player's request or because of a repeatedly appearing display of new cards, the player can be presented with a display of the initial game symbols available at the start of the game (Column 9, lines 47-51). Upon a hand being played, the display (FIG 5) will be updated to reflect the new inventory of the symbols (Column 9, lines 54-67). The display of the game symbols of the deck is in the form of a table (FIG 5) including the number left of each type of symbol in the inventory.

The computer will then determine if a player is a winner or loser and issue an award if applicable (Column 10, lines 30-34) based upon a winning schedule (FIG 4, reference 7). The player can then continue play by making another wager. Because it is disclosed that the machine will pay out a win as a function of the wins scored by the player, it is inherent that a second data structure would be storing a reference table to reference a win amount with a player combination.

The remaining indicia display is shown upon completion of the hand as it is stated that from game to game the symbols offered to the player would be deducted (Column 9, lines 61-65). It is also possible to display the constituency of the symbol data after the selection and display of the symbol (Column 6, lines 6-36).

Fuchs also discloses that it is advantageous to proceed in such a manner that after a certain number of hands and/or after the presentation of a certain symbol, it is possible to reset the entire number of game symbols (Column 3, lines 46-53). This axiomatically rearranges the inventory back into the original state of a list of a predetermined number of signals set in a randomized order (Column 1, lines 15-18; Column 4, lines 45-59). Though Fuchs discloses that

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a certain number of hands are used as the determining factor, it would be obvious to one of ordinary skill in the art to use a certain number of symbols as the limiting factor. One would be motivated to do this because the symbols represent the actual inventory, thus provide a better indication of when the count of cards may be getting low. Inherently, a counter is used to determine the number of symbols in order to issue a signal to reconstitute at a certain number. Therefore, after a certain predetermined number of symbols have been presented the entire stock of symbols s reconstituted into new symbol data for use in the game.

Fuchs further discloses a payable that is recalculated from game to game as a function of the possible game symbols to display some or all o the winning combinations (Column 10, lines 30-55). The display of Fuchs differs in principle from the fixed lists of all possible winning combinations that are presented on normal gaming machines because the information offered to the player is dependent on the game symbols actually appearing the in display symbols or on the symbols which have been held over from a previous game. Therefore, the payable reflects only the possible winning outcomes to aid the player with the relevant information they need in the shortest time possible (Column 10, lines 30-58).

Fuchs discloses reconstituting the inventory when a certain number of symbols have been played or when a certain triggering symbol appears. However, Fuchs does not disclose allowing the player to call for a reconstitution.

Richardson discloses a game where a fixed number of predetermined chances are also used in the form of pull-tabs (Abstract). The number of winning pull-tabs left and the major prizes left are displayed to the player (FIG 3). Richardson provides the player with an input device that can be used to call for a new deal at any time after playing one hand (Abstract,

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Column 3, lines 66-67). Richardson discloses that it is advantageous to allow for a new deal after all the winning chances have been redeemed or if all the major chances have been redeemed. By incorporating this rule and then allowing a player to reconstitute the winning chances, the player will feel in more control of the machine, as they will be allowed to restore all the winning possibilities at any time and thus be more inclined to continue play as no player would continue play on a machine that clearly indicates no winning chances remain. Therefore, it would have been obvious to one of ordinary skill in the art to incorporate this feature in to the device of Fuchs in order to allow the player to call for a reconstitution. One would be motivated to make this combination to allow the player to feel they have a better shot of winning, thus causing the player to play more on the game. Fuchs discloses that when a player feels his game situation is improved and the prospect of winning greater, the actual or apparent improvement in the player's situation greatly enhances the attractiveness of the machine. Thus by allowing the player the power to reconstitute the inventory, this goal would be achieved.

Response to Arguments

Applicant's arguments with respect to claims 6-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,533,658: Database keeps a location status of all cards. The database keeps track of whether a card is in the deck, dealt, or discarded.

US Patent No. 5,967,894: Poker game where odds are dynamically calculated along with the hand and the payable is altered to show possible conditions and impossible conditions.

US Patent No. 6,357,150: Reverse mapping strategy that computes keeps a pool of symbols wherein the symbols are removed from the pool upon use.

US Patent No. 5,882,258: Card game where the total remaining amount of cards are displayed for the user to determine the number of chances they have left.

US Patent No. 6,299,531: Roulette table that keeps a history of the location where the ball has landed.

US Patent No. 6,062,979: Gaming system with a card meter to display the card in use and the amount of cards left.

US Patent No. 6,131,906: Blackjack calculator to aid in strategy and counting the number of cards that have been played as well as incorporating the value of the cards indirectly into the calculation.

US Patent No. 6,343,989: Computer that estimates the highest expected value of a blackjack hand and then determines player error from the value.

US Patent No. 6,129,631: Method and apparatus for generating card improving strategies and optimizing play.

US Patent No. 6,186,894: Slot machine that shows and example of how to use multiple paylines on a gaming machine wherein the player can wager on any number of the paylines.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Friday (7:30AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Martin-Wallace can be reached on (703)-308-1148. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.


cmm
April 2, 2003



**MICHAEL O'NEILL
PRIMARY EXAMINER**